

EPA Comments on LWG Table - EPA February 18, 2010 CDF Performance Standards Comments and LWG April 14, 2010 Responses

General

1. EPA directs the LWG to address each of the performance standards in sufficient detail as to reasonably understand the substantial impacts of the performance standards on each CDF and CAD evaluated in the FS, and in sufficient detail to estimate costs of the alternatives within a range of +50% to -30%.
2. Schedule - EPA disagrees to the extent that the LWG is assuming that the draft FS completion date is automatically delayed day-for-day until issues related to the performance standards are resolved. EPA acknowledges that resolution of CDF performance standards has impacted the schedule; however, as previously discussed with the LWG, EPA needs to consider the net effect and circumstances of the individual issues and events that delay FS tasks before agreeing to delays in the overall schedule.
3. EPA agrees with the clarification and notes that we will be discussing the format and timing of the alternatives screening level check-in.
4. The CDF performance standards should generally be applied to CADs in a consistent manner as to CDFs. EPA is also willing to consider proposals from LWG that address the specific items listed in EPA's letter.
5. EPA agrees that qualitative evaluation of "design" performance standards as designated by LWG may be sufficient for comparison of alternatives; however, the FS must include cost estimates for implementation of each alternative, and these cost estimates must include consideration of the costs of both remedial design technical analyses and remedial action construction related impacts, as best they can be foreseen at the FS level.
6. No further comment.
7. EPA cautions that CWA 404 is not the only ARAR relevant to floodway intrusions into the navigation channel. FEMA regulations and Section 10 of the Rivers and Harbors Act must also be considered in the analysis.
8. No further comment.
9. No further comment.
10. No further comment.
11. No further comment.
12. EPA agrees, but notes that the qualitative evaluation must be more than simply re-stating the performance requirement. For example, for seismic considerations, EPA agrees that detailed site-specific geotechnical investigations and seismic modeling can be deferred until remedial design; however, the FS should include a review of regional soil and geologic maps as well as readily available site-specific geotechnical data by a geotechnical engineer with substantial local experience in assessment of soil/sediment stability in/near the Willamette River so as to identify relative significance of seismic concerns amongst the variously CDF and CAD sites. The review should identify conditions of potential concern that can reasonably be foreseen from available data, and provide recommendations (and estimated costs) for further analyses. Seismic conditions of concerns and costs may differ between sites. Depending upon the outcome of the review, further analysis of seismic issues in the FS for one or all sites may be appropriate.
13. No further comment.
14. No further comment.

15. No further comment.

16. No further comment.

#### Construction and Filling

17. EPA cautions that CWA Section 404 is not the only ARAR applicable to meeting water quality standards during construction of the remedy. Section 401 and 301 of the CWA requires meeting water quality standards.

18. No further comment.

19. No further comment.

20. The FS should identify the potential volume of sediment that can be disposed of in each CDF and CAD and any sediment disposal acceptance requirement that might apply. The FS should present a general plan as best it can be identified at the FS level.

21. No further comment.

22. EPA agrees, and notes that the FS should identify in a general manner the proposed plan for filling each CDF. If all material is to be placed via clamshell, then not completing a short-term modeling analysis appears appropriate. However, for a CDF that will be filled primarily by hydraulic dredging methods where a berm or similar feature is relied on to “filter” the return water, discussion of (and possibly preliminary modeling of) short term water quality impacts may be appropriate.

23. No further comment.

24. EPA expects that cost estimates will consider that some controls will be required and the FS should discuss the types of controls that would likely be needed.

25. No further comment.

26. No further comment.

27. No further comment.

28. A reasonable estimate of the cost for providing financial assurance (such as a percentage of estimated construction cost) should be included in the FS cost estimates.

29. No further comment.